



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305502-19

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<b>Development</b>	Extend and renovate the existing house, install a new on-site wastewater treatment and disposal system and all associated ancillary works.
<b>Location</b>	Springhouse, Kilshane, Co. Tipperary.
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	18/601548
<b>Applicant</b>	Alan & Susan Quinn
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party v Grant
<b>Appellant</b>	Mary Loughman
<b>Date of Site Inspection</b>	06.01.2020
<b>Inspector</b>	Anthony Kelly

## 1.0 Site Location and Description

- 1.1. The appeal site is located approx. 3km south east of Tipperary town off a local road. The house is one of a terrace of 3 houses. The first house in the row is two-storey in scale. The other two houses are single-storey cottages in appearance. There is a two-storey detached house to the east, Woodlough House, at the end of a shared, unsurfaced right-of-way which provides vehicular and pedestrian access to all 4 properties. This appears to be a secondary access for Woodlough House with the main vehicular access being to the south of the appeal site. Kilshane Church and Cemetery are approx. 70 metres to the north.
- 1.2. The houses have very small front and rear garden areas. The appeal site, however, includes a large grassed area on the opposite side of the right-of-way. This area is currently used for car parking and an existing septic tank and percolation area. The house appears to be vacant and has boarded up windows as does the mid-terrace unit. The cottage has a stone front façade. A newly-constructed block wall encloses the limited curtilage to the front of the house between the house and the right-of-way. The two-storey house appears to be occupied. This is the applicant, Alan Quinn's, sister's house.
- 1.3. The site has a stated area of 0.0971 hectares.

## 2.0 Proposed Development

- 2.1. Planning permission is sought to:
  - Extend and renovate the existing house, including a dormer conversion, single-storey extension to the rear and a front porch, and
  - Install a new wastewater treatment system serving both the house and the applicant's sister's house.
- 2.2. Further information was submitted in relation to alterations to some existing works on site and the existing septic tank and percolation area.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning Authority decided to grant permission subject to 5 conditions of a standard nature.

### 3.2. Planning Authority Reports

- 3.2.1. The Planning Report considers that the development complies with the policies of the South Tipperary Development Plan 2009 and would not have an adverse impact on the character of the area or the amenities of adjoining properties. A grant was recommended.

#### 3.2.2. Other Technical Reports

**Environment Section** – No objection subject to a condition.

**District Engineer** - No objection subject to conditions.

### 3.3. Prescribed Bodies

**Dept. of Culture, Heritage and the Gaeltacht** – No objection subject to a condition relating to minimising visual impact on protected structures.

### 3.4. Third Party Submissions

- 3.4.1. 1 third-party submission was received from the appellant, Mary Loughman, Woodlough House, Kilshane, in respect of the application and further information response. The issues raised are largely covered by the grounds of appeal with the exception of the following:

- Surface water disposal.
- Noise nuisance.

## 4.0 Planning History

4.1. None relevant.

## 5.0 Policy Context

### 5.1. South Tipperary County Development Plan 2009

5.1.1. The site is in an unzoned area.

5.1.2. The following sections of the Plan are relevant:

- Section 10.11.7 (Domestic Extensions)
- Section 10.10.2 (Wastewater Treatment Systems) to comply with the EPA Code of Practice.

5.1.3. Kilshane Church and Cemetery are approx. 70 metres to the north. The low mausoleum and the church are protected structures, RPS Nos. S094 and S093. The single-storey house located adjacent to the north west is also a protected structure (RPS No. S095; gate lodge for Arraghslea House). These are referenced in the report from the Department of Culture, Heritage and the Gaeltacht.

### 5.2. Natural Heritage Designations

5.2.1. The Lower River Suir SAC is approx. 3.4km to the south. The closest natural heritage designated area is Bansha Wood pNHA approx. 350 metres to the south.

### 5.3. EIA Screening

5.3.1. As the development does not fall within a class of development under Schedule 5 of the Planning and Development Regulations, 2001 (as amended) the application does not require EIA.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal are submitted by Mary Loughman, Woodlough House; the adjacent property. The main issues raised in the appeal can be summarised as follows:

- Development has already commenced and photographs are attached of rear elevation changes, a front boundary wall, works on the site of the percolation area and to the right-of-way. The application should therefore relate to permission for retention and completion and not permission.
- The south east and north east boundaries are labelled on the site layout plan as being retained. Submitted photographs show alterations to these boundaries. This is clearly a breach of planning regulations indicating works carried out without permission and it should be an application for retention and completion.
- The original house did not have a first-floor area. It appears that this was added without permission.
- As a result of the unauthorised development the right-of-way has been altered and interfered with, the appellant's water supply has been damaged and delivery of goods and emergency services access has been compromised. Car parking has blocked the right-of-way.
- No provision has been made to protect Woodlough House during construction from e.g. adverse vibration.
- Overlooking to the rear garden of Woodlough House.
- The existing buildings have considerable architectural merit. There are no rooflights or dormer windows on either the front or rear slopes of the roof. Front and rear dormers will considerably alter the architectural appearance and detract from the architectural heritage. It is out of character with existing development in the area.

- It would appear that the floor to ceiling height at first-floor level does not comply with building regulations.
- No detail of a contractual agreement between the owners of the two houses to be served by the proposed treatment unit has been provided to demonstrate responsibility for its maintenance and upkeep.
- The submitted site characterisation report is flawed because there is no detail of the second house. No provision has been made for a reserve percolation area and there is no evidence of adequate space being available on site for one.
- Sightlines onto the public road are restricted. The access is substandard and generates a traffic hazard.
- Unauthorised works have been carried out at unsocial hours and the Local Authority did not adequately condition to restrict working outside unsocial hours.

## 6.2. Applicants' Response

6.2.1. The response of the applicant can be summarised as follows:

- The rear extension can be considered exempt.
- The height of the wall to the front has been reduced to below 1.2 metres.
- Development of the percolation area was carried out as part of the Site Suitability Assessment.
- The applicants have not carried out any works to the right-of-way.
- Permission has been sought to convert the house to a dormer and there is no evidence during a site visit that works to a first floor had commenced.
- The design of the dormer windows is acceptable and will not negatively impact on the architectural heritage of the area. The Dept. of Culture, Heritage and the Gaeltacht has no issue in this regard.
- There will be no overlooking from the single-storey rear extension.

- The issue of non-compliance with Building Regulations is not a planning issue.
- The issue of damage to the access and water supply at Woodlough House is a civil matter between the parties involved.
- The concrete post and timber panel fence is less than 2 metres high and is exempt.
- The issue of a contractual agreement between the owners for the proposed treatment unit can be addressed under a condition of any grant.
- The wastewater treatment system and percolation area is acceptable and complies with the EPA Code of Practice 2009.
- The District Engineer had no issue with the provision of soakpits and a condition can be attached to any grant.
- The Planner addressed all concerns raised and the proposed development complies with Section 10.11.7 (Domestic Extensions) of the South Tipperary County Development Plan 2009.
- No resurfacing works have been carried out by the applicants on the right-of-way. However, there is a clear difference in ground level between the area in front of the gateway to Woodlough House and the surrounding area, including the right-of-way out to the public road. This suggests some resurfacing works in the immediate vicinity of the gateway. It is unclear who may have carried out these resurfacing works, but it was not the applicants.
- With regard to building regulations, it will be necessary to demonstrate to the Building Control Section of the Local Authority how the development complies with the relevant building regulations as part of the Commencement Notice process.
- With regard to the absence of a primary treatment unit and reserve percolation area, it is proposed to install a Secondary Treatment Unit and percolation area with all works to comply with the EPA Code of Practice 2009. There is no requirement in the Code of Practice for a reserve percolation area and it has not been required for a long number of years.

### 6.3. **Planning Authority Response**

None received.

## 7.0 **Assessment**

The main issues are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Design
- Wastewater Treatment
- Appropriate Assessment
- Other Matters

### 7.1. **Design**

- 7.1.1. It is stated in the appeal that the existing buildings have considerable architectural merit and the proposed development will alter their appearance, detract from the architectural heritage and be out of character.
- 7.1.2. The terrace is quite visible from the public road. The provision of front and rear dormer windows is the main issue in terms of visual impact, particularly the front dormer. While the subject house and the adjacent house share commonalities such as a ridge line and front fenestration and door locations the two-storey unit at the western end of the terrace already results in an unbalanced terrace. The house immediately to the east, a detached two-storey house, is very different in design and size to the terrace, though this is largely hidden from public view and is not visible with the subject house from the public realm. I note that the appeal structure or terrace it forms part of is not a protected structure, it is not located within an Architectural Conservation Area and it is not referenced in the National Inventory of Architectural Heritage.
- 7.1.3. The house does not appear to be currently occupied and has boarded-up windows etc. Works are necessary to bring the structure to reasonable occupational standard



to enable its use. The proposed front dormer windows are limited in scale, they are set in from the roof edge, set up from the eave and well down from the ridge. They are limited in terms of their visual impact. The rear dormer, while comprising a single structure as opposed to separate windows, is also set in from the roof edges and well down from the roof ridge. I do not consider the proposed dormer windows to be excessively dominant or visually incongruous or obtrusive. The Department has recommended a condition that can be included in any grant of permission to minimise any visual impact on the nearby protected structures.

7.1.4. The proposed front porch has a design sympathetic to the existing cottage. The proposed single-storey rear extension has a floor area of approx. 10sqm. It is not considered that it will have an undue impact on adjacent property.

7.1.5. I consider that the proposed dormer windows, front porch and rear extension are acceptable at this location and will not have an adverse impact on the architectural heritage or merit of the terrace or on the amenity of property in the vicinity.

## **7.2. Wastewater Treatment**

7.2.1. The grounds of appeal raise issues in relation to the proposed wastewater treatment unit and percolation area including the lack of a contract between the separate users of the system, a flawed Site Characterisation Report and the absence of a reserve percolation area.

7.2.2. It is proposed that the system to be provided would serve both the applicant's and the applicant, Alan Quinn's, sister's property, a total of 6 bedrooms, and would replace an existing septic tank and percolation located on the opposite side of the right-of-way from the houses.

7.2.3. The site is at a locally important aquifer of moderate vulnerability. No groundwater or bedrock was encountered in the 2.3 metres deep trial hole. Soil conditions were primarily sand/clay. Table B.2 (Response Matrix for On-Site Treatment Systems) of the EPA Code of Practice indicates that the site falls within the R1 response category where an on-site system is acceptable subject to normal good practice.

7.2.4. The T-test result was 12.61 minutes. Though the trial hole and percolation test holes were not open at the time of the site inspection I am satisfied that the results are consistent with the ground conditions observed on site. Table 6.3 of the Code of

Practice indicates that the site is suitable for the development of a secondary treatment system discharging to groundwater as is proposed in the application.

- 7.2.5. With regard to Table 6.1 of the Code of Practice which relates to separation distances, the existing soakpits do not appear, from the proposed site layout plan submitted with the initial application, to achieve the minimum 5 metres distance required. It is considered that this can be addressed by way of condition. The development otherwise complies with the minimum distances in Table 6.1 and Table B.3 (Recommended Minimum Distance Between a Receptor and a Percolation Area or Polishing Filter).
- 7.2.6. It appears that the proposed percolation area is oversized having regard to Table 10.1 (Minimum Soil Polishing Filter Areas and Percolation Trench Lengths Required for a Five-Person House) of the Code of Practice. This requires trench length of greater than or equal to 30 metres where there is a T-value of 3-20. Section 1.0 of the Site Characterisation Form states that the number of bedrooms to be served is 6. The maximum number of residents is stated as twelve; both in Section 1 and in Section 5 (Recommendation). However, a clarification was issued by the EPA in August 2013 in relation to design capacity requirements which stated that 6 bedrooms has a design population equivalent of 8. As per Section 10.1.1, pro-rata, the percolation trench length required for an eight-person house (or two houses as it is in this case), is greater than or equal to 48 metres and not 72 metres as proposed (8 x 9 metres long percolation trenches). Therefore, the overall length of percolation trenches required can be reduced from that proposed which would help in achieving the required distances from the soakpits as referenced in the previous paragraph.
- 7.2.7. The application is not clear with regard to existing wastewater disposal in the vicinity. As part of the further information response a site layout plan was submitted identifying the existing septic tank and percolation area on site. Which house(s) this system serves is unknown though the cover letter submitted with the application from the applicant's sister, Claire Quinn, implies that the two-storey house is currently connected. It is proposed to replace this existing system.
- 7.2.8. With specific reference to the issues raised in the grounds of appeal, Condition 4(c) of the planning authority decision to grant permission stated that the owners/occupiers shall be responsible for maintenance of the system and Condition

4(d) required submission of a signed maintenance agreement for a minimum period of three years. The planning application was accompanied by a letter from Claire Quinn, sister of the applicant Alan Quinn and the other user of the proposed system, which states that she is aware of the application including having a complete understanding of what is contained in the proposals and has discussed details of installation, maintenance and servicing in great detail. Therefore, a condition requiring detail in this regard to be agreed with the planning authority, including a legal agreement between the separate users, can be included in any grant of permission.

- 7.2.9. With regard to the flawed Site Characterisation Report, as stated in the grounds of appeal, the Report notes that 2 houses will accommodate a maximum number of 12 residents in 6 double bedrooms (the EPA clarification of August 2013 is relevant in this regard). There are only 2 bedrooms in the proposed house. Section 5.0 (Recommendation) also specifically makes reference to the fact that two houses are to be served by the system. Therefore, I do not consider that the Site Characterisation Report is flawed in this regard. I also note that a reserve percolation area is not required by the EPA's Code of Practice.
- 7.2.10. Having regard to the foregoing, and to the fact that the planning authority's Environment Section indicated no objection subject to a condition, I do not consider that there is any issue with the wastewater treatment element of the proposed development.

### **7.3. Appropriate Assessment**

- 7.3.1. The closest hydrological link to the most relevant Natura 2000 site, the Lower River Suir SAC approx. 3.4km to the south, is by way of the River Ara which is approx. 180 metres to the south. Having regard to the nature and scale of the development proposed, the nature of the receiving environment, and the absence of a source-pathway-receptor link, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

#### **7.4. Other Matters**

Other matters raised in the grounds of appeal can be addressed as follows:

- Validation of the planning application is a matter for the planning authority and the planning authority accepted the application as submitted. The application is primarily to extend and renovate the house and construct a wastewater treatment system. It is not considered the alleged unauthorised works affect the development which is specific to the planning application. The Board has no powers or role in enforcement matters. Any alleged unauthorised activity on site is a matter for the local authority to address.
- It is not considered that any undue overlooking arises to Woodlough House from the proposed development. The proposed rear dormer windows face the rear/northern boundary.
- The submitted section drawing 'A-A' shows a first-floor floor to ceiling height of 2.4 metres in Bedroom 1, a habitable room. While the study does not have the same floor to ceiling height on the section drawing, floor to ceiling height is a Building Regulations issue and not a matter for the planning process.
- Issues relating to car parking and compromised access on the right-of-way, damage to property etc. are civil matters between the respective parties and not matters relevant to the Board.
- With regard to restricted sightlines, this is an established vehicular access.
- In the event of a grant of planning permission a condition can be attached restricting the hours of construction.

#### **8.0 Recommendation**

I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

## 9.0 Reasons and Considerations

Having regard to the provisions of the South Tipperary County Development Plan 2009, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of design and wastewater treatment and would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 19.08.2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Details of the materials, colours and textures of the external finishes to the proposed extension areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

3. The effluent treatment and disposal system shall be located, constructed and maintained in accordance with the requirements of 'Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses, (p.e. less than or equal to 10)', published by the EPA. Arrangements in relation to the ongoing maintenance of

the system between the separate users of the system, including a legal agreement, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Within three months of installation, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document and that the existing septic tank and associated features have been decommissioned.

**Reason:** In the interest of clarity and public health.

4. The site shall be landscaped in accordance with a scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
  - (a) The retention of existing mature trees,
  - (b) Any additional planting considered necessary to minimise any visual impact on the protected structures.

Any proposed planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

6. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

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Anthony Kelly

Planning Inspector

27.01.2020